

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CHARLES KIRKPATRICK,

Plaintiff,

v.

ERIE INDEMNITY COMPANY,

Defendant.

C.A. No. 09-119 Erie
District Judge McLaughlin

ORDER

McLAUGHLIN, SEAN J., J.

This matter is before the Court upon Cross Motions for Summary Judgment. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1367(a).

In all material respects, the record and the issues presented in the parties' summary judgment motions in this action are identical to those raised in Stanislaw, et. al. v. Erie Indemnity Company, No. 07-1078 Erie, a case in which Plaintiff Charles Kirkpatrick is also an opt-in plaintiff. On this date, February 15, 2012, a Memorandum Opinion and Order was issued in Stanislaw wherein both Plaintiffs' and Defendant's motions for summary judgment in that action were denied. That Memorandum Opinion and Order is hereby incorporated by reference and, for the reasons stated therein, Plaintiff's and Defendant's motions for summary judgment in the instant case are similarly each DENIED. IT IS SO ORDERED.

/s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record. ____